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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/657,486	09/08/2000	Scott A. Burton	7780.612US01	2827

7590 11/19/2002

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EXAMINER

HAMILTON, LALITA M

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 11/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/657,486

Applicant(s)

BURTON, SCOTT A.

Examiner

Lalita M Hamilton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on amendment filed on June 24, 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s): 11, 8
- 4) ☐ Interview Summary (PTO-413) Paper No(s): \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### **Summary**

On March 15, 2002, an Office Action was sent to the Applicant rejecting claims 1-55. On June 24, 2002, the Applicant responded by amending claim 52.

#### ***Claim Rejections - 35 USC § 112***

In response the amendment, the rejection has been withdrawn.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11, 13-20, 22-34, and 36-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen ('570), set forth in the previous Office Action, paper no.7.

Claims 12 and 53-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Dahmen ('557), as set forth in the previous Office Action.

Claims 21, 35, and 42-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Gilbert ('150), as set forth in the previous Office Action.

Claims 45-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of D'Haese ('111), as set forth in the previous Office Action.

***Response to Arguments***

Applicant's arguments filed June 24, 2002 have been fully considered but they are not persuasive. The Applicant has argued that Chen does not teach multiple absorbent dressings wherein the layers are each absorbent yet have different absorbencies. In response, Chen discloses that multilayer construction of the absorbent dressing is well known in the art (col.5, lines 25-30), which means that the bandage may have multiple absorbent layers. It is inherent that the layers may have different absorbencies depending upon which layer is closest to the wound and that one layer may absorb more exudate than the next. Further, Chen discloses that the composition of the absorbent layer may be composed of various products used in a variety of ranges of parts by weight (col.1, lines 34-40). In constructing a multilayer product, it would be obvious to one having ordinary skill in the art to vary the composition amounts from one layer to the next to achieve different absorbencies for the layers.

In regard to claim 30, the Applicant has argued that Chen does not disclose the additional patentable aspects of the claim, which include the first absorbent layer having an absorbency of at least 200 percent and containing less than 10 percent by weight of water before application to the patient and a second absorbent layer having an absorbency of less than 50 percent of the absorbency of the first layer. In response, Chen discloses an absorbent layer having an absorbency of at least 100% to at least 300% (col.1, lines 65-67). In the specification (p.11, lines 4-8), the Applicant stated that the "second layer may contain the same components of the first absorbent layer, but

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preferably consists of a higher concentration of the acrylic or methacrylic acid ester monomer and is more tacky". In addition to what Chen discloses above, Chen further discloses that various concentrations of acrylic and methacrylic acid ester may be used (col.1, lines 32-40). Therefore, the Examiner is interpreting a second absorbent layer as being capable of having an absorbency of less than 50 percent of the first layer.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lalita M Hamilton whose telephone number is (703) 306-5715. The examiner can normally be reached on Tuesday-Thursday (8:30-4:30).

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-4520 for regular communications and (703) 306-4520 for After Final communications.

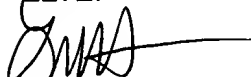
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-

2272.

  
LMH

November 18, 2002



**NICHOLAS D. LUCCHESI**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3700**